Committee on Resources

Subcommittee on National Parks & Public Lands

Statement

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before the
HOUSE RESOURCES COMMITTEE,
SUBCOMMITTEES ON NATIONAL PARKS AND PUBLIC LANDS
and FORESTS AND FOREST HEALTH, and
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE,
SUBCOMMITTEE ON AVIATION.
on H.R. 3661
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Members of the three Subcommittees, I appreciate the opportunity to appear here today to discuss H.R. 3661, a bill "to help ensure general aviation aircraft access to Federal land and to the airspace over that land."

The Department of the Interior strongly opposes enactment of H.R. 3661. H.R. 3661 would interfere with current well-established land management practices and policies for airports and landing strips on public lands. It would impose new, unanticipated and extensive management and financial burdens on the land management agencies. It could legitimize landings and other uses that are currently in trespass on the public lands. H.R. 3661 could also dramatically impair the capacity of Interior's land management agencies to carry out their resource protection, public safety, and law enforcement functions in areas that attract general aviation.

The bill would impose significant new requirements for agency decisionmaking for landing strips on federal lands managed by the Departments of Agriculture and Interior. It would require that for any agency to close or render unserviceable any airstrip it would have to obtain the approval of the FAA and the state where the strip is located, and complete a 90-day public comment period. The bill requires that for any policy of the land management agency affecting access to landing strips must be approved by the FAA and be subject to comments from the public and State governments. H.R. 3661 would require agencies to consult with each state and other interested parties to assure that strips are maintained consistent with resource values of the adjacent area. The bill would prohibit making closure or rendering an airstrip unserviceable a condition of an exchange or acquisition involving private property with an airstrip.

The effect of the bill is to remove essential decisionmaking involving airstrips from the hands of the managing agencies. While some of the requirements may appear reasonable on the surface in appropriate cases, similar procedures are already followed in many land management decisions affecting landing strips, and this bill would be an additional overlay which is not appropriate for uniform application to the many types of landing areas and management situations faced by the agencies. They would unnecessarily expand

the jurisdiction of the FAA and the state aviation offices in the lands decisions of Federal agencies and they would seriously and impair management, planning, and budget decisions and in many cases, public safety.

Impact of H.R. 3661 on the Bureau of Land Management (BLM)

Many airports in the western states are located on public land. BLM has statutory authority in the Airport Act of 1928 to lease up to 2,560 acres of public lands for use as a public airport and in the Airport and Airway Improvement Act of 1982 to convey, subject to a reverter, lands to a public agency for an airport. The BLM has 84 active airport leases and has made 33 airport grants. These leases are located near small towns, mining operations, ranches, etc. Many of these leases are held by local governments. There is FAA involvement in the approval of these leases and conveyances. BLM believes that its current airport authorities are adequate.

H.R. 3661 does not define aircraft landing strips. Under this bill landing strip could include any area that has been used for landing purposes and could require continuation of that use regardless of its purpose or origin. There are a number of strips or landing areas that have been used for special management purposes such as fire control, research and surveys, and other agency management uses, which may be temporary or occasional.

Some mining plans of operations, which require BLM approval, include landing strips as part of "reasonable access" to the facility. Other commercial activities, such as ranching and outfitter operations, use landing strips. Not all of these are authorized. Outfitters do not receive authorizations for landing strips pursuant to their recreation use permits. BLM-Idaho has identified 26 aircraft landing strips used for ranch or outfitter operations. Many of the locations appeared to be in the southern half of the state along or adjacent to the Snake and Salmon Rivers or their watersheds.

Many lakes and waterways within public lands in Alaska and elsewhere are used for landings. Are these "landing strips?" BLM-Alaska estimates 74 landing strips with some amount of improvement and upwards of 1,000 landing "strips" ranging from sandbars to simple bush clearings. Moreover, many landing strips in Alaska are closed for 6 or more months a year due to weather, and many change over time with changing landscapes and river flows. This bill might be interpreted to either impose further management requirements on the managing agencies to protect these areas and uses, at great cost, or to restrict their ability to change this use.

Unfortunately there are a large number of unauthorized landing strips or areas. The deficiencies of unauthorized strips are many. Unauthorized sites may be used for illegal activities, such as drug drops and illegal alien entries, may contain hazardous materials such as fertilizer and gasoline, and may not involve any known or responsible parties or any level of state or federal control. Under H.R. 3661, every dirt road or dry lake bed may be a potential "landing strip," subject to legitimization by the bill.

The budget impacts on BLM of H.R. 3661 would be large. Section 3(d) would apparently impose on the land management agencies an obligation for some degree of maintenance on all landing strips. These direct maintenance costs would vary from a preliminary estimate of $2,000 to $5,000 per site in the deserts of California to substantially higher amounts in Alaska and other areas. Furthermore, section 3(d) could lead to the imposition of a Federal liability on BLM under the Federal Tort Claims Act, even where we have little knowledge or means of control. In Alaska for example, there are sandbars that are used by hunters to land and access remote areas. We have no record of when and where these people land. If someone gets injured or killed during landing or takeoff, evidence might be presented of other hunters having used the same

landing site. This could be a "landing strip" under H.R. 3661, possibly forming the basis for Federal liability.

Other provisions of H.R. 3661 are also of concern to BLM.

- •BLM's existing airport authorities employ a public consultative process, including the FAA, which parallels the requirement of section 3(a). We strongly object to the blanket application of section 3(a) to any "landing strips" - thus including those outside of current BLM authorizations or indeed outside BLM's awareness. Perversely, section 3(a) might require an extended consultative process for the BLM to shut down a known drug smuggling landing strip.

- •While the Department of the Interior does not dispute FAA jurisdiction over air space of the United States, we do not feel a restatement of this policy through the "national policy" of section 3(b) and through the procedural and consultative requirements of section 3(c) are needed or useful.
- •The new provisions of section 3(c) of H.R. 3661 might considerably extend the jurisdiction of the FAA and other authorities into the management decisions of BLM and the land managing agencies affecting access.

- •Section 3(e) provides that a landing strip will not be closed as part of an exchange or acquisition of private land. BLM's ability to exchange lands to obtain inholdings within wilderness or other special areas could be severely diminished if we were unable to close a landing strip whose existence was contrary to the resource values of the surrounding area. We need the management flexibility to blend the newly acquired lands with the nature of the larger area.

Impact of H.R. 3661 on National Park Service.

H.R. 3661 would dramatically impair the capacity of the National Park Service to carry out its resource protection, public safety, and law enforcement functions in parks that attract general aviation.

H.R. 3661 would do this by restricting the ability of the Secretary to deny public access to aircraft landing strips in parks, and by requiring the Secretary to maintain an "aircraft landing strip", unless the FAA and the state in which the landing strip is located, agree that the landing strip should not be maintained.

These provisions would open up national parks to multitudes of aircraft. As noted above, the bill does not define the terms "landing strip," or "aircraft". Thus, any area that has ever been used as a landing strip by a plane or helicopter in a national park could fall under this definition and be entitled to perpetual maintenance and upkeep. Aside from the fact that it would be almost impossible to ascertain every site on which planes or helicopters have landed in parks, this requirement would place an enormous administrative and fiscal burden on the National Park Service, as aircraft have landed, legally, and illegally, in hundreds, if not thousands, of places throughout the National Park System. Although we have never taken an inventory of all the sites throughout the 80 million acre park system that have been used as air strips, our cursory review indicates that there are many strips throughout the system that were in use prior to areas attaining park status. Many of these strips were used to support mining, fishing, and other activities.

The policy ramifications of requiring the NPS to maintain every site that has ever been used as a landing strip are profound. To maintain strips we may have to grade and pave runways, among other things. If the condition of a strip has severely decayed, and needs to be rehabilitated, we might have to build roads to facilitate the transportation of equipment necessary to do the job. We might also have to develop

infrastructure such as storage facilities and other structures.

Section 3(c) of H.R. 3661 would open up these improved strips to the public, as it would significantly restrict the ability of NPS to implement a policy that restricts access to an aircraft landing strip. Presently, it is NPS policy, as expressed through its Management Policies and regulations, to prohibit general aviation aircraft access to a unit of the National Park system outside of Alaska unless it is allowed through special regulations. Although aircraft access to Alaskan parks is generally allowed under the Alaska National Interest Lands Conservation Act, (ANILCA), only a small number of parks outside of Alaska, such as Lake Mead National Recreation Area, Glen Canyon National Recreation Area, and Death Valley National Park, among others, have special regulations that allow public access to park units by aircraft. Even in these situations, public access is limited to a small number of strips that can be monitored and maintained. Section 3(c) would require the NPS to allow public access to an air strip unless it obtained approval for the denial of access from the FAA, and sought and considered comments on the access denial from state governments and the public. By its terms, section 3(c) would restrict our policy making with respect to all aircraft, including commercial, not just general aviation.

By increasing public access to these strips, H.R. 3661 would place at risk fragile park resources. It would also lead to safety and law enforcement problems. These formerly used strips are in areas that have been included in national parks by Acts of Congress because of their unique natural or cultural attributes. The introduction of general and possibly other forms of aviation to these sites would subject them to pollutants and would also increase the levels of noise in these areas. This would be an unfortunate and ironic consequence, considering that Congress recently passed H.R. 1000, which contains a provision that allows the Federal Aviation Administration, in conjunction with the National Park Service, to regulate air tours over national parks and thus protect the natural soundscapes of parks. Thus, under H.R. 3661 the National Park Service could have less authority over planes that actually land in parks than it would have over planes that fly over them.

In addition, the increase in access and development would undoubtedly lead to safety problems, as the NPS would be unable to regulate the quantity of traffic to these sites. Many of these airstrips are in terrain that requires demanding approaches and full performance takeoffs, with very little room for error. Landing a plane on these strips requires a level of expertise that is beyond the expertise of many general aviators. The accidents that could ensue from attracting inexperienced aviators to difficult landing sites would endanger the lives of individuals, and increase the exposure of the taxpayer to legal liability. Furthermore, the existence of thousands of developed and regularly maintained back country landing areas could facilitate resource-impacting criminal activity in parks, such as the theft of cultural artifacts, the cultivation and extraction of illegal plants, or illegal hunting. It could also facilitate other criminal activity, such as drug smuggling.

We also disagree with several of the premises underlying this bill. The findings section of the bill states that general aviation serves an essential purpose in search and rescue and fire fighting activities. We believe that this bill would impair, rather than enhance, our ability to carry out these functions. These functions are carried out almost exclusively by governmental entities. By attracting general aviation to landing strips that must be used by the government to carry out these functions, the bill in effect would restrict governmental access to these strips, as general aviators would be taking up space that could be needed by governmental aircraft to carry out these missions.

We also question whether this bill serves any legitimate needs with respect to national parks. Most of our parks are adjoined by gateway communities that have airports to service the general aviation community.

Indeed, by requiring the maintenance of backcountry airstrips, H.R. 3661 would take away business from these gateway airports.

The bill would also impair our resource-conservation mission by giving state agencies a veto power over NPS actions taken with respect to these strips, as it would require the Secretary to consult with State agencies to ensure that 'landing strips are maintained in a manner that is consistent with the resource values of the adjacent area."

For all these reasons, we strongly oppose H.R. 3661. We also note and concur in the comments and analysis of the National Forest Service. This concludes my testimony. I would be happy to answer any of your questions.

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